

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: James Thompson et al.  
Serial No.: 09/767,374  
Filing Date: January 22, 2001  
Examiner: Dohm Chankong  
Art Unit: 2452  
Confirmation No.: 2543  
Title: DISTRIBUTED NETWORK COMMUNICATION  
SYSTEM WHICH ALLOWS MULTIPLE WIRELESS  
SERVICE PROVIDERS TO SHARE A COMMON  
NETWORK INFRASTRUCTURE

**Technology Center 2400**  
Commissioner of Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Dear Sir:

**NON-FEE PETITION UNDER 37 C.F.R. § 1.181 TO WITHDRAW  
HOLDING OF ABANDONMENT AND RE-MAIL NONFINAL OFFICE ACTION**

This petition is filed in response to the Notice of Abandonment dated April 14, 2009. This Petition under 37 C.F.R. § 1.181 is to request that the holding of abandonment be withdrawn.

A nonfinal Office Action was mailed October 6, 2008 to the law firm of Dillon & Yudell, LLP which set a three month period for reply. Dillon & Yudell, LLP had previously prosecuted this application. However, a revocation of attorney and appointment of new attorneys was filed on July 7, 2008 which named Baker Botts L.L.P., Customer No. 05073, as the new attorneys of record. As indicated in the attached statement of facts, Applicants never received the nonfinal Office Action, and therefore, did not respond by the due date of January 6, 2009.

Accordingly, the holding of abandonment is improper pursuant to M.P.E.P. § 711.03(c)II. The required showing to establish nonreceipt pursuant to M.P.E.P. § 711.03(c)II is provided in the following documents:

1. Counsel's Statement of Facts in Support of Petition to Withdraw Holding of Abandonment.
2. Copy of the revocation of attorney and appointment of new attorneys filed July 7, 2008.
3. Copy of the Electronic Acknowledgment Receipt (EFS No. 3570800) dated July 7, 2008.

As the abandonment of this case was through no fault of Applicants, it is respectfully requested that a new nonfinal Office Action be mailed and the date for response to be three months from the mail date of the new nonfinal Office Action, pursuant to M.P.E.P. § 711.03(c)II. It is not believed that any fees are due. However, if it is determined that a petition fee or any additional fees are due, please charge these fees to Baker Botts L.L.P. Deposit Account No. 02-0384.

Respectfully submitted,  
BAKER BOTTS L.L.P.  
Attorneys for Applicants



Mark J. Spolyar  
Reg. No. 42,164

Date: 10/14/2009

CORRESPONDENCE ADDRESS:

**CUSTOMER NO. 05073**

Tel: (650) 739-7511

**TAB 1**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Serial No.: 09/767,374  
Filing Date: January 22, 2001  
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**Technology Center 2400**  
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P.O. Box 1450  
Alexandria, Virginia 22313-1450

Dear Sir:

**COUNSEL'S STATEMENT OF FACTS IN SUPPORT OF**  
**NON-FEE PETITION UNDER 37 C.F.R. § 1.181 TO WITHDRAW**  
**HOLDING OF ABANDONMENT**

I am a patent attorney employed with Baker Botts L.L.P. I am listed as an attorney of record for the above-identified pending U.S. patent application entitled *Distributed Network Communication System Which Allows Multiple Wireless Service Providers To Share A Common Network Infrastructure* filed on January 22, 2001 under Application No. 09/767,374. My residence is San Francisco, California, and my place of employment is Palo Alto, California, and were so at all times relevant to the Statement of Facts. The following facts relate to the subject application:

1. In the case of the above-referenced application, this application was previously prosecuted by Dillon & Yudell, LLP. On July 7, 2008, a revocation of attorney and appointment of new attorneys (Tab 2) was filed along with a response to a Final Office Action and an IDS. The acknowledgment receipt showing that these documents were

received at the PTO is attached for further reference (Tab 3). The attorneys of record information was not updated at the PTO so the Office Action dated October 6, 2008 was sent to the wrong law firm.

2. As an attorney of record for the above-identified pending U.S. patent application, I attest that the Office Action dated October 6, 2008 was not received from the PTO.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application for any patent issuing thereon.



Mark J. Spolyar  
Reg. No. 42,164

Date: 10/14/2009  
CORRESPONDENCE ADDRESS:  
**CUSTOMER NO. 05073**

**TAB 2**

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**POWER OF ATTORNEY TO PROSECUTE APPLICATIONS BEFORE THE USPTO**

I hereby revoke all previous powers of attorney given in the application identified in the attached statement under 37 CFR 3.73(b).

I hereby appoint:

☒ Practitioners associated with the Customer Number:

05073

OR

☐ Practitioner(s) named below (if more than ten patent practitioners are to be named, then a customer number must be used):

Name	Registration Number	Name	Registration Number

as attorney(s) or agent(s) to represent the undersigned before the United States Patent and Trademark Office (USPTO) in connection with any and all patent applications assigned only to the undersigned according to the USPTO assignment records or assignment documents attached to this form in accordance with 37 CFR 3.73(b).

Please change the correspondence address for the application identified in the attached statement under 37 CFR 3.73(b) to:

☒ The address associated with Customer Number:

05073

OR


<input type="checkbox"/> Firm or Individual Name			
Address			
City	State	Zip	
Country			
Telephone	Email		

Assignee Name and Address:  
 Cisco Systems, Inc.  
 170 West Tasman  
 San Jose, California 95134

A copy of this form, together with a statement under 37 CFR 3.73(b) (Form PTO/SB/96 or equivalent) is required to be filed in each application in which this form is used. The statement under 37 CFR 3.73(b) may be completed by one of the practitioners appointed in this form if the appointed practitioner is authorized to act on behalf of the assignee, and must identify the application in which this Power of Attorney is to be filed.

**SIGNATURE of Assignee of Record**

The individual whose signature and title is supplied below is authorized to act on behalf of the assignee

Signature		Date	6/10/2008
Name	Mallun Yen	Telephone	408.525.9706
Title	Vice President Intellectual Property		

This collection of information is required by 37 CFR 1.31, 1.32 and 1.33. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 3 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**STATEMENT UNDER 37 CFR 3.73(b)**Applicant/Patent Owner: James W. Thompson et al.Application No./Patent No.: 09/767,374 Filed/Issue Date: January 22, 2001Entitled: Distributed Network Communication System Which Allows Multiple Wireless Service Providers to Share a Common Network InfrastructureCisco Systems, Inc., a California corporation  
(Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. ☒ the assignee of the entire right, title, and interest; or
2. ☐ an assignee of less than the entire right, title and interest  
(The extent (by percentage) of its ownership interest is \_\_\_\_\_ %)

in the patent application/patent identified above by virtue of either:

A. ☐ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel \_\_\_\_\_, Frame \_\_\_\_\_, or for which a copy thereof is attached.

OR

B. ☒ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as follows:

1. From: Inventors To: Wayport, Inc.

The document was recorded in the United States Patent and Trademark Office at  
Reel 011803, Frame 0123, or for which a copy thereof is attached.

2. From: Wayport, Inc. To: Cisco Systems, Inc.

The document was recorded in the United States Patent and Trademark Office at  
Reel 020362, Frame 0120, or for which a copy thereof is attached.

3. From: \_\_\_\_\_ To: \_\_\_\_\_

The document was recorded in the United States Patent and Trademark Office at  
Reel \_\_\_\_\_, Frame \_\_\_\_\_, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet.

☐ As required by 37 CFR 3.73(b)(1)(i), the documentary evidence of the chain of title from the original owner to the assignee was, or concurrently is being, submitted for recordation pursuant to 37 CFR 3.11.

[NOTE: A separate copy (i.e., a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, to record the assignment in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

/mark j. spolyar/

Signature

Mark J. Spolyar

Printed or Typed Name

Date

650.739.7511

Telephone Number

Attorney of Record for Cisco Systems, Inc.

Title

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



**TAB 3**

**Acknowledgement Receipt**

The USPTO has received your submission at **11:27:45** Eastern Time on **07-JUL-2008** by Deposit Account: 020384.

\$ **180** fee paid by e-Filer via *RAM* with Confirmation Number: 8028.

You have also pre-authorized the following payments from your USPTO Deposit Account:

Charge any Additional Fees required under 37 C.F.R. Section 1.17 (Patent application and reexamination processing fees)

**eFiled Application Information**

EFS ID	3570800
Application Number	09767374
Confirmation Number	2543
Title	Distributed network communication system which allows multiple wireless service providers to share a common network infrastructure
First Named Inventor	James Thompson
Customer Number or Correspondence Address	42640
Filed By	Keiko Ichiye/Laurie Scott
Attorney Docket Number	WAYPORT.06300US
Filing Date	22-JAN-2001
Receipt Date	07-JUL-2008
Application Type	Utility under 35 USC 111(a)

**Application Details**

Submitted Files	Page Count	Document Description	File Size	Warnings
Cis2756pwrofatty.pdf	2	Power of Attorney	124872 bytes	◆ PASS
Cis2756RespFOA.pdf	34		1330365 bytes	◆ PASS
		<b>Document Description</b>	<b>Page Start</b>	<b>Page End</b>
		Amendment After Final	1	1
		Claims	2	31
		Applicant Arguments/Remarks Made in an Amendment	32	34
Cis2756IDS.pdf	2	Information Disclosure Statement Letter	51968 bytes	◆ PASS
Cis2756PTO1449.pdf	2	Information Disclosure Statement (IDS) Filed	79731 bytes	▲ WARNINGS
This is not an USPTO supplied IDS fillable form				
fee-info.pdf	2	Fee Worksheet (PTO-06)	8244 bytes	◆ PASS

This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a

Post Card, as described in MPEP 503.

New Applications Under 35 U.S.C. 111

If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53 (b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

National Stage of an International Application under 35 U.S.C. 371

If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

New International Application Filed with the USPTO as a Receiving Office

If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.

*If you need help:*

- *Call the Patent Electronic Business Center at (866) 217-9197 (toll free) or e-mail [EBC@uspto.gov](mailto:EBC@uspto.gov) for specific questions about Patent e-Filing.*
- *Send general questions about USPTO programs to the [USPTO Contact Center \(UCC\)](#).*
- *If you experience technical difficulties or problems with this application, please report them via e-mail to [Electronic Business Support](#) or call 1 800-786-9199.*